



PUBLIC NOTICE

Federal Communications Commission
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DA 02-2579

Released: October 8, 2002

DOMESTIC SECTION 214 APPLICATION FILED FOR ACQUISITION OF ASSETS OF TELSEON CARRIER SERVICES, INC. BY ONFIBER CARRIER SERVICES, INC.

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 02-232

On July 26, 2002, OnFiber Carrier Services, Inc. ("OnFiber Carrier") and OnFiber Carrier Services-Virginia, Inc. ("OnFiber-Virginia") (collectively, the "OnFiber Entities") and Telseon Carrier Services, Inc. ("Telseon Carrier") and Telseon Carrier Services of Virginia, Inc. ("Telseon-Virginia") (collectively, the "Telseon Entities") (altogether, the "Joint Applicants"), filed an application for authorization pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, to transfer control of lines through the sale of certain telecommunications assets from the Telseon Entities to the OnFiber Entities in California, Colorado, the District of Columbia, Florida, Georgia, Illinois, New Jersey, New York, Pennsylvania, Texas, Virginia, and Washington.¹

Applicants assert that this application is subject to streamlined processing under section 63.03(b)(2)(i) of the Commission's rules because the OnFiber Entities will have a market share in the interstate, interexchange market of less than 10 percent; the OnFiber Entities will be providing telecommunications services only in geographic areas served by a dominant local exchange carrier that is not a party to this transaction; and none of the Joint Applicants is dominant with respect to any service.²

¹ The Joint Applicants supplemented their application with a request for special temporary authority (STA) for OnFiber to operate the Telseon assets pending Commission action on their pending application "to save Telseon from an impending financial crisis, as well as to avoid a potential bankruptcy filing by Telseon." See Letter from Enrico C. Soriano, Kelley Drye & Warren LLP, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-232 (filed Aug. 27, 2002); Letter from Enrico C. Soriano, Kelley Drye & Warren LLP, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-232 (filed Aug. 15, 2002). The information in the STA request indicated the possibility of an unauthorized transfer of control. Any action on the Joint Applicants' transfer of control application does not preclude or prejudice any enforcement action related to an unauthorized transfer of control.

² 47 C.F.R. § 63.03(b)(2)(i).

The OnFiber Entities are wholly-owned subsidiaries of OnFiber Communications, Inc. (“OnFiber Communications”). The OnFiber Entities currently are authorized to provide resale and facilities-based local exchange and interexchange services in approximately 20 states. They operate fiber optic networks in major metropolitan areas, delivering broadband connectivity services principally to other carriers and Internet Service Providers (“ISPs”) through SONET, Ethernet, and Optical Wavelength product offerings. OnFiber Communications is a Delaware corporation located at 8101 E. Prentice Avenue, Suite M202, Englewood, CO 80111.

The Telseon Entities are wholly-owned subsidiaries of Telseon, Inc. The Telseon Entities are currently authorized to provide resale and facilities-based local exchange and interexchange services in approximately 19 states. They provide a wide range of broadband and high-speed digital private line services principally to other carriers and ISPs over fiber optic networks in major metropolitan areas. Telseon, Inc. is a Delaware corporation located at 7887 East Belleview Avenue, Suite 600, Englewood, CO 80111.

On June 26, 2002, by Letter Agreement (the “Letter Agreement”), OnFiber Communications and Telseon IP Services, Inc., Telseon Carrier Services, Inc., Telseon Carrier Services of Virginia, Inc., and Telseon, Inc. (collectively, the “Telseon Companies”) agreed to a transaction pursuant to which OnFiber Communications will purchase substantially all of the assets and assume certain of the liabilities of the Telseon Companies (the “Transaction”).³

The Joint Applicants assert that grant of this application will serve the public interest because it will avoid the Telseon Companies’ filing for bankruptcy based on their precarious financial situation. Moreover, the Joint Applicants state that the transfer of the assets to the OnFiber Entities will increase competition in the domestic telecommunications markets by making it possible for the OnFiber Entities to expand their market reach. The Joint Applicants assert that, given the difficult times faced by competitive carriers, it is all the more important to preserve existing competitive facilities-based options and robust local competition in the local and interexchange telecommunications markets.

GENERAL INFORMATION

The transfer of control application identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission’s rules and policies. Interested parties

³ Although OnFiber Communications, and not OnFiber, is the actual party to the Letter Agreement, the Telseon Entities’ regulated assets in the relevant states will ultimately be transferred to the OnFiber Entities. The OnFiber Entities will be the operating entities in the relevant jurisdictions, and OnFiber Communications will remain the holding company.

may file **comments within 14 days** and **reply comments within 21 days** of this notice.⁴ Unless otherwise notified by the Commission, an applicant is permitted to transfer control of the domestic lines or authorization to operate on the 31st day after the date of this notice. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

In addition, one copy of each pleading must be sent to each of the following:

- (1) the Commission's duplicating contractor, Qualex International, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: qualexint@aol.com; facsimile: (202) 863-2898; phone: (202) 863-2893.
- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street,

⁴ See 47 C.F.R. § 63.03(a).

S.W., Room 5-C437, Washington, D.C. 20554; e-mail: twilson@fcc.gov, and

(3) Bill Dever, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C266, Washington, D.C. 20554; e-mail: wdever@fcc.gov; and

(4) Nandan Joshi, Office of General Counsel, 445 12th Street, S.W., Room 8-A820, Washington, D.C. 20554; e-mail: njoshi@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

For further information, please contact Tracey Wilson, at (202) 418-1394 or Bill Dever, Competition Policy, Wireline Competition Bureau at (202) 418-1578.

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